

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF ICG TELECOM GROUP, INC.)	
FOR ARBITRATION OF ITS)	
INTERCONNECTION AGREEMENT WITH)	
CINCINNATI BELL TELEPHONE COMPANY)	CASE NO. 97-042
PURSUANT TO SECTION 252(b) OF THE)	
TELECOMMUNICATIONS ACT OF 1996)	

O R D E R

On August 21, 1996, ICG Telecom Group, Inc. ("ICG") submitted its request for negotiations to Cincinnati Bell Telephone Company ("Cincinnati Bell") under Section 252(b) of the Telecommunications Act of 1996 (the "Act"). On January 28, 1997, ICG filed with the Commission its petition for arbitration, which includes a motion seeking to extend the time the Commission has to arbitrate the parties' unresolved issues.¹ Cincinnati Bell does not oppose the motion. However, because the date by which the Commission must reach a decision on the arbitrated issues is statutorily imposed,² the Commission finds that ICG's motion should be denied.

It should be noted that brevity, as well as clarity of expression and position, are of the essence in this proceeding. It is also imperative that the Commission receive

¹ ICG's petition also includes a request that the Commission protect as confidential certain Cincinnati Bell information contained in Exhibit "C" to its petition. However, Cincinnati Bell's response to ICG's petition, which was filed on February 24, 1997, does not include a petition seeking confidential treatment of the information. ICG's entire petition has therefore been placed in the public record.

² See 47 U.S.C. Section 252(b)(4)(C).

appropriate information in a timely manner. Accordingly, the following guidelines and procedural schedule shall apply to this proceeding.

The purpose of this proceeding is to explore specific arbitration issues, not to engage in tangential or philosophical debate. The broad framework for implementation of local competition in Kentucky was established in Administrative Case No. 355,³ and issues decided therein shall not be reconsidered here. In addition, the legality of the Federal Communications Commission orders issued pursuant to the Act is currently in litigation in the Eighth Circuit Court of Appeals. This Commission will, of course, abide by orders issued by that Court. It will not hear argument on those issues in its arbitration proceedings under the Act.

The parties are also hereby notified that the Commission expects them to agree to comprehensive protection orders regarding confidential information to which each party must have access in order to participate meaningfully in this proceeding. In addition, when the parties essentially have agreed as to a particular issue, but they have not been able to agree as to the precise language to express the agreement, the Commission will not hear argument on the issue in this proceeding. Reduction of the proposed agreement to writing is the responsibility of the parties. Each party may submit its proposed version of the contract term in its best and final offer, which shall be submitted no later than April 14, 1997.

³ Administrative Case No. 355, An Inquiry Into Local Competition, Universal Service and the Non-Traffic Sensitive Access Rate.

Although the Commission is not bound by the technical rules of legal evidence, KRS 278.310, the parties hereto are hereby put on notice that cumulative, repetitive, and irrelevant evidence will not be heard in the formal hearing in this matter. Opening and closing statements, if any, shall be brief and precise. In addition, unless special leave is granted, all direct testimony shall be prefiled. All testimony at the formal hearing shall be offered pursuant to cross examination or redirect examination. Finally, the Commission expects the parties to continue their negotiations, through mediation or otherwise, and to reach agreement on as many issues as possible prior to the formal hearing in this matter. If, at the conclusion of the hearing, the parties believe that post-hearing briefs are necessary, they may request leave to file briefs at that time, stating with particularity those issues upon which they believe additional briefing is necessary.

The Commission being sufficiently advised, IT IS THEREFORE ORDERED that:

1. ICG's motion is hereby denied.
2. A formal hearing in this matter is scheduled for 10:00 a.m., Eastern Daylight Time, April 28, 1997, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.
3. Relevant cost studies, including workpapers, and any other documents and information necessary to resolve outstanding issues shall be filed by Monday, March 31, 1997.
4. An informal conference with Commission Staff for the purpose of discussing unresolved issues in this matter is scheduled for 9:00 a.m., Monday, March 31, 1997,

in Hearing Room 2 of the Commission's offices at 677 Comanche Trail, Frankfort, Kentucky.

5. Prefiled testimony shall be filed by April 14, 1997.
6. Any agreed-upon portions of the parties' contract which have not already been filed shall be filed by April 14, 1997.
7. Each party shall submit, in contract form, its best and final offer on each disputed issue no later than April 14, 1997.

Done at Frankfort, Kentucky, this 25th day of March, 1997.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director